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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/800,565

03/15/2004

Roger Geoffrey Halstead

23488

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EXAMINER

DUMAS, NKEISHA J

ART UNIT

PAPER NUMBER

3632

MAIL DATE

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/800,565	<b>Applicant(s)</b> HALSTEAD, ROGER GEOFFREY	
	<b>Examiner</b> NKEISHA J. DUMAS	<b>Art Unit</b> 3632	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 15 March 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,3-10 and 12-18 is/are pending in the application.
- 4a) Of the above claim(s) 2,11 and 19 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3-10 and 12-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 March 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                       | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>6/18/2004</u> .   | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

1. The following correspondence is a non-final Office Action for application no. 10/800,565 for a POSITION ADJUSTMENT MECHANISM, filed on 3/15/2004. This correspondence is in response to applicant's reply filed on 2/14/2008. Claims 1-19 are pending. Claims 2, 11 and 19 are withdrawn.

#### ***Election/Restrictions***

2. Applicant's election of the species of Fig. 4 in the reply filed on 2/14/2008 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

#### ***Priority***

3. Acknowledgment is made of applicant's claim for foreign priority based on an application filed in the United Kingdom on 9/14/2001. It is noted, however, that applicant has not filed a certified copy of the foreign application as required by 35 U.S.C. 119(b).

#### ***Drawings***

4. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the three members as set forth in claim 1, and, the more than one member as set forth in claim 8 must be shown or the feature(s) canceled from the claim(s). Further, the plurality of cam circuit/cam follower combinations as set forth in claims 16 and 17 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

5. Figure 1 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

6. In addition to Replacement Sheets containing the corrected drawing figure(s), applicant is required to submit a marked-up copy of each Replacement Sheet including annotations indicating the changes made to the previous version. The marked-up copy must be clearly labeled as "Annotated Sheets" and must be presented in the amendment or remarks section that explains the change(s) to the drawings. See 37 CFR 1.121(d)(1). Failure to timely submit the proposed drawing and marked-up copy will result in the abandonment of the application.

***Claim Rejections - 35 USC § 112***

7. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

8. Claims 1-11 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Claim 1 recites a limitation regarding "at least three members." The specification, however, does not adequately describe where these three members are located on the structure and how they are oriented. The drawings, further, do not show three members located on the position adjustment mechanism and, in fact, only show one member located on the mechanism in any of the figures. The claims, therefore, are interpreted by the Examiner as having only one member. Claims 2-11 are rejected for the same reasons as dependent on claim 1.

9. Claims 16 and 17 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Claim 16 recites a limitation regarding "a plurality of cam circuit/cam follower combinations." Claim 17 recites a limitation regarding "wherein three such cam circuit/cam follower combinations are provided at equal intervals." The specification, however, does not adequately describe where these cam circuit/cam follower combinations are located on the structure and how they are oriented. The drawings, further, do not show a plurality or three cam circuit/follower combinations located on the position adjustment mechanism at the same time and, in fact, only show one cam circuit/cam follower combination located on the mechanism in any of the figures at any one time. The claims, therefore, are interpreted by the Examiner as having only one cam circuit/cam follower at any one time.

10. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

11. Claims 1-11, 16 and 17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

12. Claim 1 recites the limitation "wherein the detents and members are equi-spaced around the first and second portions." This limitation is unclear because applicant does not describe what is meant by the term "equi-spaced." Based on the Examiner's

understanding, the term means "equally spaced." It does not appear, however, that applicant has disclosed, described or shown a mechanism where the detents and one member are equally spaced around the first and second portions. Further it is unclear what part of the first and second portions applicant intends for the detent and member to be equally spaced around. Claims 2-11 are rejected for the same reasons as dependent on claim 1.

13. Claim 3 recites the limitation "their axes" in the third line. There is insufficient antecedent basis for this limitation in the claim.

14. Claim 16 recites the limitation "the circumference of the cylindrical portions" in the third line. There is insufficient antecedent basis for this limitation in the claim.

15. Claim 17 recites the limitation "the circumference of the cylindrical portions" in the second and third lines. There is insufficient antecedent basis for this limitation in the claim.

### ***Claim Rejections - 35 USC § 102***

16. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

17. Claims 1, 3-10 and 12-18 rejected under 35 U.S.C. 102(b) as being anticipated by Rothschild (EP 0165190).

Regarding claim 1, as best understood, Rothschild teaches a position adjustment mechanism (Figs. 2, 4a) comprising two cylindrical portions (4, 5), a first one of the

portions (4) being slidably disposed inside a second one of the portions (5), wherein one of the portions has at least three detents (at P0, P1, P2) and the other portion has a member (2), the members being removable from the detents and the member and detents are equi-spaced around the first and second portions.

Regarding claim 3, as best understood, Rothschild teaches the mechanism of claim 1, wherein the cylinders are arranged with their axes generally vertical, and said detents are upwardly open (Fig. 4a).

Regarding claim 4, as best understood, Rothschild teaches the mechanism of claim 1, wherein said detents are formed on the first portion (Fig. 2).

Regarding claim 5, as best understood, Rothschild teaches the mechanism of claim 4, wherein said member is formed on the second portion (Fig. 2).

Regarding claim 6, as best understood, Rothschild teaches the mechanism of claim 5, wherein said detents each form a part of a groove formed on said first portion, the member engaging in respective said grooves (Fig. 4a).

Regarding claim 7, as best understood, Rothschild teaches the mechanism of claim 6, wherein said grooves form respective circuits, said member moving around the circuit as the portions move from their first position to their second position and back to their first position (Fig. 4a).

Regarding claim 8, as best understood, Rothschild teaches the mechanism of claim 6, having an odd number of grooves and a member (Fig. 4a).

Regarding claim 9, as best understood, Rothschild teaches the mechanism of claim 1, wherein one of the portions is in contact with a first body (page 9, col. 22) and



the other of said portions is in contact with a second body (floor or support), motion of the portions between the first and second positions serving to adjust the distance between the bodies.

Regarding claim 10, as best understood, Rothschild teaches the mechanism of claim 1, wherein a chamber is formed between the cylindrical portions, relative movement being effected through pressurizing or depressurizing the chamber (increasing and decreasing the amount of air in the chamber).

Regarding claim 12, Rothschild teaches an apparatus (Figs. 2, 4a) comprising a cam circuit (2) provided to a first one of an element (4) and a cam follower (2) provided to a second one of an element (5).

Regarding claim 13, Rothschild teaches the apparatus of claim 12, wherein the first and second elements comprise respective first and second cylindrical portions, the first one (4) of which is disposed inside the second (5).

Regarding claim 14, Rothschild teaches the apparatus of claim 13, wherein an end of the first cylindrical portion together with an internal bore (9) of the second cylindrical portion form a chamber between the elements (Fig. 2).

Regarding claim 15, Rothschild teaches the apparatus of claim 12, wherein the chamber has a combined fluid inlet/outlet (hole through which member 1 is inserted).

Regarding claims 16 and 17, as best understood, Rothschild teaches the apparatus of claim 12, further comprising a cam circuit/cam follower combination positioned non-diametrically opposite around a circumference of the cylindrical portions (Figs. 4a-4c).

Although claim 18 recites purely functional limitations, it is nonetheless rejected because Rothschild teaches the apparatus of claim 12, wherein it is possible that relative longitudinal movements between the elements in one direction are effected through introducing a fluid under pressure into the chamber.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to NKEISHA J. DUMAS whose telephone number is (571)272-5781. The examiner can normally be reached on Monday - Friday, 7:30 a.m. - 4:00 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Glessner can be reached on (571) 272-6843. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

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USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

njd

/Anita M. King/  
Primary Examiner, Art Unit 3632

February 29, 2008